

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 843-720-5270

463 KING STREET, SUITE B
CHARLESTON, SC 29403-7204

Facsimile 843-414-7039

October 8, 2019

Via Electronic Filing

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, SC 29210

RE: South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Duke Energy Carolinas, LLC's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) - S.C. Code Ann. Section 58-41-20(A)

Docket No. 2019-185-E

South Carolina Energy Freedom Act (H.3659) Proceeding to Establish Duke Energy Progress, LLC's Standard Offer, Avoided Cost Methodologies, Form Contract Power Purchase Agreements, Commitment to Sell Forms, and Any Other Terms or Conditions Necessary (Includes Small Power Producers as Defined in 16 United States Code 796, as Amended) - S.C. Code Ann. Section 58-41-20(A)

Docket No. 2019-186-E

Dear Ms. Boyd:

Please find attached for electronic filing the *Second Prehearing Brief* filed on behalf of the South Carolina Coastal Conservation League (CCL) and Southern Alliance for Clean Energy (SACE) in the above-referenced matter.

Please contact me if you have any questions concerning this filing.

Sincerely,
s/ Lauren J. Bowen
Lauren J. Bowen
Admitted Pro Hac Vice
Southern Environmental Law Center
601 W Rosemary St. # 220,
Chapel Hill, NC 27516
Telephone: (919) 967-1450
Attorney for South Carolina
Coastal Conservation League and
Southern Alliance for Clean Energy

CERTIFICATE OF SERVICE

I hereby certify that the parties listed below have been served via electronic mail with a copy of the *Second Prehearing Brief* filed on behalf of the South Carolina Coastal Conservation League and Southern Alliance for Clean Energy.

Alexander W. Knowles, Counsel
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
aknowles@ors.sc.gov

Andrew M. Bateman, Counsel
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
abateman@ors.sc.gov

Becky Dover, Counsel
SC Department of Consumer Affairs
bdover@scconsumer.gov

Benjamin L. Snowden, Counsel
Kilpatrick Townsend & Stockton, LLP
4208 Six Forks Road, Suite 1400
Raleigh, NC 27609
bsnowden@kilpatricktownsend.com

Carri Grube Lybarker, Counsel
SC Department of Consumer Affairs
clybarker@scconsumer.gov

Carrie Harris Grundmann, Counsel
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
cgrundmann@spilmanlaw.com

James Goldin, Counsel
Nelson Mullins Riley & Scarborough LLP
1320 Main Street 17th Floor
Columbia, SC 29210
jamey.goldin@nelsonmullins.com

Jeremy C. Hodges, Counsel
Nelson Mullins Riley & Scarborough, LLP
1320 Main Street, 17th Floor
Columbia, SC 29201
jeremy.hodges@nelsonmullins.com

Len S. Anthony, Counsel
The Law Office of Len S. Anthony
812 Schloss Street
Wrightsville Beach, NC 28480
len.anthony1@gmail.com

Nanette S. Edward, Counsel
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201
nedwards@ors.sc.gov

Rebecca J. Dulin, Counsel
Duke Energy Carolinas, LLC
1201 Main Street, Suite 1180
Columbia, SC 29201
Rebecca.Dulin@duke-energy.com

Richard L. Whitt, Counsel
Whitt Law Firm, LLC
Post Office Box 362
Irmo, SC 29063
richard@rlwhitt.law

Derrick Price Williamson, Counsel
Spilman Thomas & Battle, PLLC
1100 Bent Creek Blvd., Suite 101
Mechanicsburg, PA 17050
dwilliamson@spilmanlaw.com

E. Brett Breitschwerdt, Counsel
McGuireWoods LLP
434 Fayetteville Street, Suite 2600
Raleigh, NC 27601
bbreitschwerdt@mcguirewoods.com

Frank R. Ellerbe III, Counsel
Robinson Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Columbia, SC 29201
fellerbe@robinsongray.com

Heather Shirley Smith, Deputy General
Counsel
Duke Energy Carolinas, LLC
40 W. Broad Street, Suite 690
Greenville, SC 29601
heather.smith@duke-energy.com

Robert R. Smith, II, Counsel
Moore & Van Allen, PLLC
100 North Tryon Street, Suite 4700
Charlotte, NC 28202
robsmith@mvalaw.com

Samuel J. Wellborn, Counsel
Robinson Gray Stepp & Laffitte, LLC
1310 Gadsden Street
Columbia, SC 29201
swellborn@robinsongray.com

Scott Elliott, Counsel
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
selliott@elliottlaw.us

Stephanie U. (Roberts) Eaton, Counsel
Spilman Thomas & Battle, PLLC
110 Oakwood Drive, Suite 500
Winston-Salem, NC 27103
seaton@spilmanlaw.com

Weston Adams III, Counsel
Nelson Mullins Riley & Scarborough, LLP
Post Office Box 11070
Columbia, SC 29211
weston.adams@nelsonmullins.com

This 8th day of October, 2019.

s/ Emily Selden
Emily Selden

BEFORE THE PUBLIC SERVICE
COMMISSION OF SOUTH CAROLINA

DOCKET NO. 2019-185-E

DOCKET NO. 2019-186-E

)
In the Matter of:)
South Carolina Energy Freedom)
Act (H.3659) Proceeding to)
Establish Duke Energy Carolinas,)
LLC's Standard Offer, Avoided)
Cost Methodologies, Form)
Contract Power Purchase)
Agreements, Commitment to Sell)
Forms, and Any Other Terms or)
Conditions Necessary (Includes)
Small Power Producers as Defined)
in 16 United States Code 796, as)
Amended) - S.C. Code Ann.)
Section 58-41-20(A), and)
South Carolina Energy Freedom)
Act (H.3659) Proceeding to)
Establish Duke Energy Progress,)
LLC's Standard Offer, Avoided)
Cost Methodologies, Form)
Contract Power Purchase)
Agreements, Commitment to Sell)
Forms, and Any Other Terms or)
Conditions Necessary (Includes)
Small Power Producers as Defined)
in 16 United States Code 796, as)
Amended) - S.C. Code Ann.)
Section 58-41-20(A))
)
)
)

**SECOND PREHEARING BRIEF OF THE
SOUTHERN ALLIANCE FOR CLEAN
ENERGY AND SOUTH CAROLINA
COASTAL CONSERVATION LEAGUE**

Pursuant to South Carolina Public Service Commission (“Commission”) Order No. 2019-107-H, Docket Nos. 2019-185-E and 2019-186-E, the South Carolina Coastal Conservation League (“CCL”) and the Southern Alliance for Clean Energy (“SACE”) (collectively, the “Conservation Groups”), through counsel, file this second prehearing brief on certain issues in the current proceeding, which concerns the avoided cost rates for Duke Energy Progress (“DEP”) and Duke Energy Carolinas (“DEC”) (collectively “Duke Energy” or “the Companies”).¹

I. Summary of responses to other parties’ positions and responses thereto

In general, the parties appear to have identified the same or similar provisions of federal and state law that are at issue in this proceeding.² Conservation Groups take a different position from DEP and DEC regarding whether the Companies have met these federal and state law requirements, as described in Conservation Groups’ initial brief and pre-filed expert testimony. In particular, the parties disagree regarding whether DEP and DEC’s avoided costs and newly proposed integration charge have been reasonably calculated and are legally sufficient under state and federal law. Conservation Groups’ position and reaction to the Companies’ initial testimony (as summarized in the Companies’ pre-hearing brief) have been largely set forth in the Conservation Groups’ initial pre-hearing brief, the direct testimony filed on September 23, 2019, and surrebuttal testimony currently being prepared by Conservation Groups’ expert witness for filing by October 11, 2019. Conservation Groups appreciate the opportunity to file pre-hearing

¹ Conservation Groups appreciate the opportunity to file this responsive brief and reserve the right to respond to issues raised by the other parties in surrebuttal testimony or at the evidentiary hearing.

² Conservation Groups identified additional relevant provisions beyond those identified by DEP and DEC, including provisions of Act 62 regarding the pending grid integration study by the Commission and ORS.

briefs and look forward to further addressing these issues at the hearing and in post-hearing filings.

II. Outstanding procedural issues, including evidentiary issues

Conservation Groups do not have any outstanding procedural or evidentiary issues to identify for the Commission at this time. Conservation Groups are working with the other parties to wrap up any outstanding discovery requests and streamline the hearing process to the extent possible.

III. Brief summary of testimony filed since September 30

The Conservation Groups have not filed any testimony since September 30, but are in the process of preparing surrebuttal testimony in response to the rebuttal testimony filed by Duke Energy on October 2, 2019. The Conservation Groups will file Surrebuttal testimony on or before October 11, 2019.

IV. Descriptions of any stipulations reached or issues not in controversy

The Conservation Groups have not reached any stipulations at this time, but appreciate the opportunity to file this prehearing brief.